

### **REMARKS/ARGUMENTS**

The Applicants originally submitted Claims 1-35 in the Application. In previous responses, the Applicants amended Claims 1, 5, 12-14, 17, and 27, and cancelled Claims 2-4, 6-11, 15-16, 18-26, and 28-35 without prejudice or disclaimer. In a previous response, the Applicants also added dependent Claims 36-45. In the present response, the Applicants have neither added, cancelled nor amended any claims. Accordingly, Claims 1, 5, 12-14, 17, 27, and 36-45 are currently pending in the Application.

#### **I. Rejection of Claims 1, 5, 12-14, 17, 27 and 36-45 under 35 U.S.C. §112**

The Examiner has rejected Claims 1, 5, 12-14, 17, 27, and 36-45 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Applicants respectfully disagree, and respectfully traverse this rejection.

**Ia)** The Examiner contends that the phrase “an output-only display” has not been described in the specification. The Applicants respectfully state that, according to M.P.E.P. ¶2163.I “General Principles Governing Compliance With the ‘Written Description Requirement’ for Applications,” “An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997).” According to M.P.E.P. ¶2163.1B, “New or Amended Claims,” “While there is no *in haec verba* requirement, newly added claim limitations must be supported through express, implicit, or inherent disclosure.”

Though an “output-only” display is not specifically stated in the Application, this type of display is implicitly disclosed. For example, in the present Application, a liquid crystal display 18 displays information to the user, as is well known in the art, is disclosed. (See page 4, line 29 – page 5, line 5.) As such, the Applicants respectfully state that it would be understood to one of ordinary skill in the art that a liquid crystal display as described in the Application is an “output-only display.”

Therefore, the written description requirement of 35 U.S.C. §112, first paragraph is satisfied. Accordingly, the Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §112, first paragraph rejection of pending Claims 1, 5, 12-14, 17, 27, and 36-45 and allow issuance thereof.

**Ib)** The Examiner contends that the phrase “*fully* accessible” has not been described in the specification. The Applicants respectfully disagree with the Examiner. According to M.P.E.P.

¶2111.01 “Plain Meaning I.”

During examination, the USPTO must give claims their broadest reasonable interpretation in light of the specification. This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (discussed below); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.)

“Fully,” as defined in <Dictionary.com <http://dictionary.reference.com/browse/fully>> on October 20, 2008, as found in *The American Heritage® Dictionary of the English Language, Fourth Edition*, Houghton Mifflin Company, 2004, means: “1. totally or completely....”

The present Application states: “An example of the various operating states is given hereafter. In the open position, the handset is *fully* available to make or answer a call.” (See page 10, lines 16-17, emphasis added.) Figure 4 of the present Application also discloses that both a first

user interface and a second user interface are fully (*i.e.*, totally or completely) accessible and active.

As such, the written description requirement of 35 U.S.C. §112, first paragraph, is satisfied. Accordingly, the Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §112, first paragraph rejection of pending Claims 1, 5, 12-14, 17, 27, and 36-45 and allow issuance thereof.

## **II. Rejection of Claims 1, 5, 12-14, 17, 27, 36-45 under 35 U.S.C. §103**

The Examiner has variously rejected Claims 1, 5, 12-14, 17, 27, and 36-45 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,197,332 to Andersson, *et al.* ("Andersson") in view of U.S. Patent No. 7,126,588 to Oakley, further in view of U.S. Patent Application Publication No. 2003/0040899 to Ogilvie, still further in view of U.S. Patent Application Publication No. 2004/0204123 to Cowsky, III, *et al.* ("Cowsky"), and yet still further in purported well known prior art (M.P.E.P. ¶2144.03). The Applicants respectfully disagree since Anderson is not prior art.

The Applicants note that Andersson has a filing date of **December 3, 2004**. Andersson is also a Continuation in Part of U.S. Patent Application No. 10/829,415, filed on **April 21, 2004**. However, the present Application has a filing date of **November 3, 2003**. Therefore, Andersson is **not** a valid prior art reference, because the earliest potential priority date of Andersson, **April 21, 2004**, is nonetheless *after* the priority date of the present Application, the filing date, **November 3, 2003**. Therefore, a combination of Andersson with the other cited references to reject Claim 1 is improper.

As such, the cited rejection does not provide a proper *prima facie* case of obviousness for Claim 1 and its dependent claims. For similar reasons, the rejection does not provide a proper *prima*

*facie* case of obviousness for Claim 17 and its dependent claims, either. Accordingly, the Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §103 rejection of pending Claims 1, 5, 12-14, 17, 27, and 36-45 and allow issuance thereof.


### **III. Conclusion**

In view of the foregoing remarks, the Applicants see all of the Claims currently pending in this Application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1, 5, 12-14, 17, 27, and 36-45.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present Application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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